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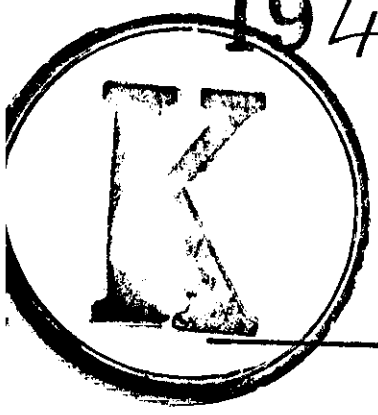

File No. Defence of India II/47

Legal **DEPARTMENT**

B, **BRANCH**

Subject:—

Rules and Notifications under the Defence of India Act, 1939 and rules.

3'2

File No. D. of 9. II/47

Std. Sectt. Slip 24 B c.

124-B

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C O N T E N T S.

Legal Department File No. D. of I.II/47.

S.No.	Compilation No.	Subject.	Pages.
		The Defence of India Act,1939 and Rules Thereunder	
1.	U.R.to P.& S.D.No. 680 dtd.20.1.47	Sec.19(1)(b) - Notification under-	1-4.
2.	U.R. to H.D.No. 5402 dtd.26.5.47	Sec.19(1)(b) - -do- -	5-8.
3.	U.R. to PWD No. 6887 dtd.4.7.47	Whether Provincial Government can make order prohibiting the erection of works for supply of electrical energy ---	9-10
4.	CR & CMIO No.2755/5 dated 18.7.47.	Sec.19(1)(b)- Notification under-	11-14 (not copied)
5.	U.R. to H.D.No.8013 dated 4.8.47	Rule 86(2) - Notification under-	15-18
6.	U.R.to P.& S.D.No. 7718 dated 25.7.47	Rule 81A Order under -	19-22
7.	U.R. to P.& S.D.No. 7830 dtd.29.7.47	Statement of the case to the Adv. General - -	23-32 (Not Copied)
8.	U.R.C.S.D.No.805-Estt. dated 28.8.47	Requisitioning a room ---	33-34 (Not copied)
9.	U.R. to H.D. No.9205 dated 15.9.47	Sec.19(1)(b)- Notificationunder under	35-38
10.	U.R. to H.D.No.9204 dated 15.9.47	Sec.19(1)(b) - -do- ----	39-42
11.	U.R.to H.D.No.11659 dated 5.12.47	Sec. 19(1)(b)- - do - -----	43-46
12.	U.R. to H.D.No.11538 dated 2.12.47	Sec.19(1) (b) - Notification under -	47- 50
13.	CR.R.D.No.5984 dated 15.12.47	Appointment of an Arbitrator for requisitioned properties -	51 - 56. (Not copied)
14.	U.R. to H.D. No. 13490 dated 20.12.47	Sec. 19(1)(b) - Notification under.....	57-60

5-Co.
M.V.V./9.5

B/1415 A/1415

Office of the R. L. A.

In place of the proposed draft notification on page 65, a revised draft notification is sent herewith.

As the requisitioning of four blocks in question was not continued under the Requisitioned Land (Continuance of Powers) Ordinance, 1946 (Ordinance No.XII of 1946), reference has been given in the revised draft notification to section 2 of the Defence of India (Second Amendment) Ordinance, 1946 (Ordinance No.XII of 1946). It is not usual for the R.L.A. to revise Government resolutions like the Government Resolution at pages 63-64 ante.

Sd/-

Remembrancer of Legal Affairs.

U.O.R. to P. & S. Deptt. No.680 dated the 30th January 1947.

S.V.V.
9/5.
L-Cx.

NOTIFICATION.

Political and Services Department,
Bombay Castle, January 1947.

Defence of India Act,1939.

No.7/1- Apptt.- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification No. 1365-GR/42, dated the 19th September 1942, read with section 2 of the Defence of India (Second Amendment) Ordinance, 1946 (Ordinance No. XII of 1946) , the - Government of Bombay is pleased to appoint the Civil Judge (Senior Division), Poona, as arbitrator to determine the amount of compensation payable in respect of the property situated at @ Poona, specified in the Schedule hereto appended and requisitioned by the Collector of Poona under his order No. N.I.L 716 dated the 24th May 1945, made under sub-rule (1) of rule 75-A of the Defence of India Rules.

SCHEDULE.

Discription of the property.

Four blocks (Nos. 7 to 10 on the first floor) of the Nowrojee Gocooldas Sanitorium at present in possession of the Dave Hindu Hotel, Poona.

By order of the Governor of Bombay,

Chief Secretary to Government.

L-Co.
M.V.V.
9/5.

Office of the R.L.A.

In place of the Revenue Department draft notification at page 17 a revised draft thereof is sent herewith. It is not usual for the Remembrancer of Legal Affairs to revise the Government Resolution at pages 15-16 ante.

Sd/-
26/5.

Remembrancer of Legal Affairs.

U.R. to R.D. No.5402 dated the 26th May 1947.

U.V.V.
9/5.

(4-Cs.)

NOTIFICATION.

Revenue Department,
Bombay Castle, 1947.

Defence of India Act 1939.

No. 1248/45.- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification, No.1365-OR/42, dated the 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act,1947 (XVII of 1947), the Government of Bombay is pleased to appoint the Chief Judge of the Small Cause Court, Bombay, as arbitrator to determine the amount of the compensation payable in respect of the land admeasuring 38 gunthas in Survey No. 238, House No.6, at Vile Parle in the Bombay Suburban District, and requisitioned by the Collector, Bombay Suburban District under his order No. W.A.R. 77, dated the 9th December 1942, made under sub-rule (1) of rule 75-A of the Defence of India Rules, 1939.

By order of the Governor of Bombay,

Secretary to Government.

L-Co.
N.V.V.
9/5.

Office of the R.L.A.

Rule 81(2) of the Defence of India Rules empowered the Provincial Government to make an order inter alia to prohibit the production of any articles or things of any description whatever. Under this rule the Government of Bombay made an order directing among other licensees the holder of the Dhond Electric License, 1940 (Mr.Uplap) not to proceed with the erection of any works authorised under the Indian Electricity Act, 1910, for the purpose of supply of electrical energy. (Vide Government Order No. 1932/36, dated 20/12/1943 at p.29 of P.W.D. file 1932/36/6356). The Defence of India Act, 1939 under which rule 81 was made was due to expire on 30/9/1946 but as it was considered desirable to continue the life of that rule along with other rules for some time more an Emdiance Ordinance, ~~it~~ called the Emergency Provisions (Continuance) Ordinance, 1946, was promulgated by the Governor General on 25/9/1946, whereby rule 81 was continued in force in an amended form notwithstanding the expiry of the Defence of India Act, 1939. By virtue of the provisions of clause (ii) of section 2(1) of the Ordinance the Government Order No. 1932/36 dated 20/12/1943 referred to above also continued in force. The Emergency Provisions (Continuance) Ordinance which was promulgated on 25/9/1946 expired on 24/3/1947 and along with the Ordinance the Government Order of 20/12/1943 made under rule 81 of the Defence of India Rules must be considered to have expired. The Order is not saved either by the provisions of sub-section (3) of section 2 of the Ordinance or section 7 of the Bombay Electricit (Emergency Powers) Act, 1946, and that being the position the question ~~of~~ of cancelling ~~the~~ the same as proposed by the P.W.D. does not arise.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 6837 dated the 4th July 1947.

4-Ce.
M.V.V.
9/5.

O R D E R.

Home Department.
Bombay Castle, July 1947.

Defence of India Rules.

No. . In exercise of the Powers under sub-rule(2) of rule 96 of the Defence of India Rules read with sub-section (4) of section 1 of the Defence of India Act, 1939 (XXIV of 1939), the Government of Bombay is pleased to specify the Chief Judge, Court of Small Causes, Bombay, as the authority by which the claim for compensation in respect of the motor launch "HORMAZ" requisitioned by the under his Order No. dated made under rule of the said Rules, shall be adjudged and awarded.

By order of the Governor of Bombay,

Secretary to Government.

L-Cs.
M.V.V.
20/9.

Office of the R.L.A.

It appears from these papers that the motor launch "Gornar" was requisitioned by the N.O.I/C., Bombay on behalf of the Central Government for the use of the Air Forces (vide para. 6 of the Statement at p.3 ante). Under sub-rule (1) of rule 96 of the Defence of India Rules the owner of any property which has been requisitioned by the Central Government or a Provincial Government is entitled to such compensation as may be fixed in accordance with to the provisions of the rule. Under sub-rule (2) of the rule in default of agreement between Government and the owner of the property the Central Government or the Provincial Government as the case may be shall by general or special order specify the authority or person by which or whom any claim for compensation under sub-rule (1) shall be adjudged and awarded. The words "the Central Government or the Provincial Government as the case may be" in sub-rule (2) show that the arbitrator has to be appointed by the Government which has requisitioned the property. This is further made clear by sub-rule (3) under which the Central Government or the Provincial Government as the case may be has the power to prescribe the conditions to which the arbitrator shall have regard when determining the amount of compensation payable and to give supplementary orders. Unless therefore the power of the Central Government to appoint an arbitrator under rule 96 has been delegated to the Provincial Government, the Provincial Government would not be competent to appoint an arbitrator in the present case.

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs.

U.R. to H.D.No. 8013, dated the 4th August 1947.

4-Co.
H.V.V.
10/5.

Political and Services Department.,

Bombay Castle, July 1947.

O R D E R.

No. .- Whereas in exercise of the powers conferred by sub-rule (1) of rule 81A of the Defence of India Rules as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, the Government of Bombay referred for adjudication the trade dispute between .....
and its employees and appointed Mr. .. ..
to adjudicate the same;

And whereas the said Adjudicator gave his award in the said dispute on..... ....:

And whereas in the opinion of the Government of Bombay it is necessary for maintaing supplies and services essential to the life of the community to enforce the said award;

Now, therefore, in virtue of the powers vested in the Provincial Government by sub-rule (1) of the said rule 81A of the Defence of India Rules and continued in force by section 2 of the said Emergency Provisions (Continuance) Ordinance, 1946, read with section 6 of the General Clauses Act,1897, the Government of Bombay is pleased to make the following Order, namely:-

The said Award shall be in force and shall bind.....
.....and its employees for four months from the..
.....

Neither the .... nor any of its employees nor any other person shall contravene or abet the contravention of any terms of the Award while it is in force.

Note:- If any person contraveres or abets the contravention of the Award he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

By order of the Governor of Bombay,

Deputy Secretary to Government.

4-Cs.
H.V.V.
10.5

Office of the H.L.A.

A revised draft Order is sent herewith.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs

U.O. to P.& S.D. No.7718, dated the 24th July 1947.

Submitted for signature,

S.D.P.
25/7

S.A.S. Sd/- 25/7.

A-Co.
M.V.V./10.5

Office of the R.L.A.

A revised draft notification is sent herewith.

2. As the land in question was not acquired under the provisions of the Requisitioned Land (Continuance of Powers) Ordinance,1946 (XII of 1946), or the Requisitioned Land (Continuance of Powers) Act, 1947, section 6 of the latter Act has no application. Reference to that Act has therefore been omitted from the revised draft. Reference has however been made to section 2 of Ordinance No.XII of 1946 which amended section 1(4) of the Defence of India Act, 1939.

Sd/-P.N.Lal.
12.9

Remembrancer of Legal Affairs.

U.O. to R.D. No.9205, dated the 15th September 1947.

4-Cs.
N.V.V.
10.5

NOTIFICATION.

Revenue Department,

Bombay Castle, September 1947.

Defence of India Act, 1939.

No. In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section section 19 of the Defence of India Act, 1939 (XXXV of 1939) entrusted to the Provincial Governments by the Government of India, Defence Department Notification No.1955-OR/42, dated the 19th September 1942 read with section 2 of the Defence of India (Second Amendment) Ordinance, 1946 (Ordinance No.XII of 1946), the Government of Bombay is pleased to appoint the Civil Judge (Senior Division), Nasik, as arbitrator to determine the amount of compensation payable in respect of the land situate at Deolali in the Nasik District specified in the Schedule hereto appended and acquired by the Collector of Nasik under his Order No. LAQ.824, dated the 26th May 1947 made under rule 75-A of the Defence of India Rules.

SCHEDULE.

Description of the land.			
S.No.		Area.	
		A.	G.
3 Pt.		0	17½

By order of the Governor of Bombay,

Secretary to Government.

L-Ca.

M.V.V.
10/5.

Land Department.

A revised draft notification is sent herewith.

2. Since the lands in question were requisitioned under rule 75A of the Defence of India Rules and there was no continued subjection of the said requisitioned lands to requisition under Requisitioned Land (Continuance of Powers) Ordinance, 1946 (XIX of 1946) or the Requisitioned Land (Continuance of Powers) Act, 1947, section 6 of the latter Act is not applicable in this case. Reference to that Act has therefore been omitted from the revised draft Reference has however been made to Ordinance No.XII of 1946 which amended section 1(4) of the Defence of India Act, 1939.

3. It is presumed the Collector had issued three separate orders bearing No.W.A.R. dated the 8th January 1942 in respect of lands specified opposite to them in the Schedule in the revised draft.

Sd/- P.N.Lal,
12/9.

Secretary to Government.

U.O. to R.D. No.9704, dated the 15th September 1947.

4-Ca.
W.V.V./10.9

Notification.

Revenue Department,

Bombay Castle, 1947.

Defence of India Act, 1939.

No. 5072/39. - In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department, Notification, No.1365-OR/42, dated the 19th September 1942 read with section 2 of the Defence of India (Second Amendment) Ordinance, 1946 (Ordinance No.XII of 1946), the Government of Bombay is pleased to appoint the Chief Judge of the Small Cause Court, Bombay, as arbitrator to determine the amount of compensation payable in respect of the lands situate at Sher and Kolekalyan in the Bombay Suburban District specified in column 1 of the Schedule hereto annexed and requisitioned by the Collector of the Bombay Suburban District under his orders made under sub-rule (1) of rule 75A of the Defence of India Rules specified opposite to them in column 2 of the said Schedule.

Schedule.

Lands 1	Collector's Orders. 2
1. Here insert B-B on page 33.	No.W.A.R. dated the 8th January 1942.
2. Here insert C-C on page 33.	No.W.A.R. dated the 8th January 1942.
3. Here insert D-D on page 33.	No. W.A.R. dated the 8th January 1942.
4. Here insert A-A on page 33.	No.W.A.R. dated the 9th March 1942.
5.	

By order of the Governor of Bombay,

Secretary to Government.

4-Co.
M.V.V.
10/5.

Office of the R.L.A.

The draft Order at p.43, as amended, is in order.

2. It is presumed the Civil Judge possesses the qualifications required by section 19(1)(b).

Sd/- P.N.Lal.
3/12.
Remembrancer of Legal Affairs.

U.R. to R.D. No. 11659 dated the 5th December 1947.

A-Cs.
P.V.T.
10/5.

Order.

Revenue Department.
Bombay Castle, 1947.

No.5436/45.- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXIV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification, No.1965-GR/42, dated 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947, the Government of Bombay is pleased to appoint the Civil Judge (Junior Division), Panvel, as arbitrator to determine the amount of compensation payable in respect of the property situate at Kegaon in the Uran Taluk of the Kolaba Sub District specified in the schedule hereto appended and requisitioned by the Collector of Kolaba under his order No.L.A.Q.1 , dated the 24th July 1942 made under sub-rule (1) of the rule 75-A of the Defence of India Rules, and 40 cartload of trees cut down by the Defence authorities.

The Schedule.

Description of the property.

Village.	Taluk.	District.	Survey Number	H.No.	Area A.G.	Fare of the buildings.
Kegaon	Uran	Kolaba	192	-	4-1033/4	
			193	-	1-8.3/4	
			197	A. 5	0-6.3/4	

By order of the Governor of Bombay,

V.N.SARDESAI,
Secretary to Government.

L-Co./N.V.V./10.5

Office of the R.L.A.

The draft notification at page 11 ante as amended is in order.

Para.4 of R.D. note at page 7:- The present draft notification at page 11 and the draft notification already supplied with R.L.A's No.11089, dated the 20th November 1947, do not cover the period from 1st June 1945, to 2nd July 1945 in respect of both the flats No.11 and 11A which were then requisitioned for the Defence Department alone of the Government of India. It is, therefore, necessary to issue a fresh Notification in respect of that period for both the flats. The requisite draft Notification is sent herewith. The Government Resolution also may be amended correspondingly.

Sd/- P.N.Lal.
2/12.
Remembrancer of Legal Affairs.

U.R. to R.D. No.11538, dated the 2nd December 1947.

L-Co.
N.V.V.
10/5.

NOTIFICATION.

Revenue Department,
Bombay Castle, December 1947.

No. 5969/65.- In exercise of the powers of the Central Government under clause (h) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification, No.1365-OR/42, dated the 19th ~~Nov~~ September 1942, read with section 2 of the Defence of India (Second Amendment) Ordinance 1946 (Ordinance No.XII of 1946), the Government of Bombay is pleased to appoint the Chief Judge of the Small Causes Court, Bombay, as arbitrator to determine the amount of compensation payable in respect of flat No.11 in "Ivanhoe", Peckhey Reclamation, requisitioned by the Collector of Bombay under his order No. Mlly/102, dated the 11th April 1945, ~~made~~ made under sub-rule (1) of rule 75A of the Defence of India Rules.

By order of the Governor of Bombay,

Secretary to Government.

A-Cs.
M.V.V.
10/5.

Office of the R.L.A.

The draft notification at page 45 ante as very slightly amended is in order.

Sd/- P.U.Lal.,
29/12.

Remembrancer of Legal Affairs.

U.O. to H.D. No.13490, dated the 30th December 1947.

A-Cs.
U.V.V.
10/5.

NOTIFICATION.
Home Department,
Bombay Castle, 1947.

Requisitioned Land (Continuance of Powers) Act, 1947.

No.3534/5. In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939) entrusted to the Provincial Governments by the Government of India, Defence Department, Notification No.1365-OR/42, dated the 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947(XVII of 1947), the Government of Bombay is pleased to appoint the Civil Judge, Junior Division, Ahmedabad, as arbitrator to determine the amount of compensation payable in respect of the bungalow bearing Municipal Census No.397 situate at Ellis Bridge, Ahmedabad, and requisitioned by the Collector of Ahmedabad, under his Order No.R.E.Q. (D.I.R.), dated the 26th September 1946, and made under sub-rule (1) of rule 75-A of the Defence of India Rules.

By order of the Governor of Bombay,

Secretary to the Government.

4-Cs.
H.V.V.
10/5.